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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

JOSUE SOTO, GHAZI RASHID, MOHAMED)
 ABDELFAHATTAH, on Behalf of All Aggrieved)
 Employees, All Others Similarly Situated, and)
 the General Public,)
 Plaintiffs,)

vs.

DIAKON LOGISTICS (DELAWARE) INC., a)
 foreign corporation; and)
 DOES 1 through 50, inclusive,)
 Defendants.)

CASE NO. 08-CV-0033-L-AJB

CLASS ACTION

DIAKON LOGISTICS (DELAWARE) INC.,)
 Counterclaimant,)

vs.

JOSUE SOTO,)
 Counterclaim Defendant.)

**WAIVER OF SERVICE
 OF SUMMONS**

DIAKON LOGISTICS (DELAWARE) INC.,)
 Third-Party Plaintiff,)

vs.

SAYBE'S, LLC, ABDUL TRUCKING, INC.,)
 and RASHID TRUCKING, INC.,)
 Third-Party Defendants.)

TO James H. Hanson and
 Robert L. Browning
 R. Jay Taylor Jr.
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1 I, Issa J. Michael, acknowledge receipt of your request that Third-Party Defendants,
2 Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc. waive service of summons in the
3 action of *Josue Soto et al. v. Diakon Logistics (Delaware) Inc v. Saybe's, LLC, Abdul Trucking,*
4 *Inc., and Rashid Trucking, Inc.*, which is Case No. 08-cv-0033-L-AJB in the U.S. District Court
5 for the Southern District of California. I have also received a copy of the First Amended Third-
6 Party Complaint in the action, two copies of this instrument, and a means by which I can return
7 the signed waiver to you without cost to me.

8 I agree to save the cost of service of a summons and an additional copy of the First
9 Amended Third-Party Complaint in this lawsuit by not requiring that Saybe's, LLC, Abdul
10 Trucking, Inc., and Rashid Trucking, Inc. be served with judicial process in the manner provided
11 in Rule 4.

12 Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc. will retain all defenses or
13 objections to the lawsuit or the jurisdiction or venue of the court except for objections based on a
14 defect in the summons or the service of summons.

15
16 Dated: August 4, 2008



Issa J. Michael
Attorney for Third-Party Defendants
Saybe's, LLC, Abdul Trucking, Inc., and
Rashid Trucking, Inc.

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service to the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of that response with the Court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

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